

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARGARITA MORENO

§

v.

§

CASE NO. 4:22-cv-2692

JURY

DILLARD'S INC. dba DILLARD'S,
DILLARD TEXAS EAST, LLC dba
DILLARD'S and
DILLARD TEXAS, LLC dba
DILLARD'S

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NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendants Dillard's Inc. (incorrectly identified as "Dillard's Inc. dba Dillard's"), Dillard Texas East, LLC (incorrectly identified as "Dillard Texas East, LLC dba Dillard's"), and Dillard Texas, LLC (incorrectly identified as "Dillard Texas, LLC dba Dillard's") (hereinafter collectively "Defendants"), while fully reserving all rights and defenses, file this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division. Removal is proper under 28 U.S.C. §§1332 and 1441(a) because this is an action over which the United States District Court for the Southern District of Texas, Houston Division, has original diversity jurisdiction, as it is an action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendants respectfully would show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction under 28 U.S.C. §§1332 and 1441(a).
2. Plaintiff, Margarita Moreno (hereinafter "Plaintiff"), is a citizen of and an

individual residing in Harris County, Texas.¹

3. Defendant Dillard's Inc. is a corporation organized and existing under the laws of the State of Delaware. Defendants Dillard Texas East, LLC and Dillard Texas, LLC are limited liability companies organized and existing under the laws of the State of Delaware.

4. As described more fully below, Plaintiff seeks to recover from the Defendants an amount in excess of \$75,000.00, excluding interest and costs, in her state court action.

II. PENDING STATE SUIT

5. On or about June 28, 2022, Plaintiff filed a civil action against Defendants in Cause No. 1187437 styled *Margarita Moreno v. Dillard's Inc. dba Dillard's, Dillard Texas East, LLC dba Dillard's and Dillard Texas, LLC dba Dillard's* in the County Civil Court at Law No. 2 of Harris County, Texas.²

6. According to Plaintiff's Original Petition, she was injured at a store located at "900 Memorial City Way, Houston, Texas 77024" that Defendants allegedly managed, controlled, occupied, and maintained.³

7. Plaintiff claims a large glass shelf fell on her foot while shopping for bed linens at the store at issue, which purportedly caused her to suffer serious and permanent injuries.⁴

8. The name and address of the Court from which the case is being removed is:

Harris County Civil Court at Law No. 2
Harris County Civil Courthouse
201 Caroline, 5th Floor
Houston, Texas 77002

¹ See Plaintiff's Original Petition attached hereto as Exhibit A, at ¶ 3.

² See Exhibit A.

³ *Id.* at ¶¶ 11 and 12.

⁴ *Id.*

III. STATE COURT DOCUMENTS

9. The following documents are attached to this Notice of Removal:

- Exhibit A Plaintiff's Original Petition.
- Exhibit B Notices of Service of Process.
- Exhibit C Defendants' Verified Denial and Original Answer.
- Exhibit D An index of matters being filed.
 - D-1 Copy of the state court Docket Sheet/Record.
 - D-2 Copy of Citations.
 - D-3 A list of all counsel of record, addresses, telephone numbers, and parties.
 - D-4 Civil Cover Sheet.

IV. TIMING OF REMOVAL

10. Defendants were served with Plaintiff's Original Petition on July 11, 2022.⁵ This Notice of Removal is being filed within 30 days of service of the Original Petition upon Defendants and is timely filed under 28 U.S.C. §1446(b).

V. JURISDICTION

11. Pursuant to 28 U.S.C. §1332, a defendant has a right to remove a case to federal court if the case involves a dispute between completely diverse parties and the amount in controversy, excluding interest and costs, exceeds \$75,000.00.

12. Plaintiff has asserted that she seeks monetary relief less than \$250,000.00.⁶ Based on the allegations in Plaintiff's Original Petition, this matter is removable to this Court under 28 U.S.C. §1332 because the amount in controversy, excluding interests and costs, exceeds \$75,000.00.

⁵ See Notices of Service of Process attached hereto as Exhibit B.

⁶ See Exhibit A, ¶ 2.

13. Plaintiff also alleges in her Original Petition that she is a citizen and resident of Texas.⁷

14. Defendant Dillard's Inc. is a corporation organized and existing under the laws of the State of Delaware. Defendants Dillard Texas East, LLC and Dillard Texas, LLC are limited liability companies organized and existing under the laws of the State of Delaware. However, as set forth in Defendants' Verified Denial and Original Answer, Defendants are not proper parties to this lawsuit.

15. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendants under 28 U.S.C. §1332.

VI. VENUE

16. Pursuant to 28 U.S.C. §1441(a), venue for this action is proper in the United States District Court for the Southern District of Texas, Houston Division, as it is the federal judicial district that encompasses the County Civil Court at Law No. 2 of Harris County, Texas, where the state action was originally filed.

VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT

17. As the removing party, Defendants will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. §1446(d).

18. Defendants will also file a copy of this Notice of Removal with the County Civil Court at Law No. 2 of Harris County, Texas, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

VIII. ANSWER

19. Defendants timely filed an answer in the state court action. By removing this action to this Court, Defendants do not waive any defenses, objections or motions available to it

⁷ *Id.* at ¶ 3.

under state or federal law, and will timely file responsive pleadings to Plaintiff's Original Petition in this Court as well.

PRAYER

20. For these reasons and in conformity with 28 U.S.C. §1446, Defendants respectfully remove the civil action styled *Margarita Moreno v. Dillard's Inc. dba Dillard's, Dillard Texas East, LLC dba Dillard's and Dillard Texas, LLC dba Dillard's*, and bearing Cause No. 1187437 on the docket of the County Civil Court at Law No. 2 of Harris County, Texas. Defendants pray for such other and further relief, both general and special, at law and in equity, to which they may show they are justly entitled.

Respectfully submitted by,

/s/ Adraon D. Greene
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of August, 2022, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants. I also certify that I have forwarded this filing by regular U.S. Mail, postage pre-paid, this same day to all non-CM/ECF participants.

Via E-Service: kgreenwood@midtownlegal.com

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